

situation, the maximum amount of pay allowed under the Constitution should not be voted and that the expenses of the State government generally should be reduced at least twenty-five per cent; now be it

Resolved by the Senate of the State of Texas, that the pay of the Senators representing the 17th, 11th and 23rd Senatorial Districts be set at eight dollars (\$8) per day during the term of the Regular Session of the Forty-third Legislature.

HOLBROOK,
ONEAL,
PURL.

The resolution was read.

Senator Parr moved to table the resolution. The motion was lost.
The resolution was adopted.

Resolution Signed.

The Chair, President Pro Tem. Walter Woodul, gave notice of signing, and did sign, in the presence of the Senate, after its caption had been read, the following resolution:

S. C. R. No. 3.

Adjournment.

On motion of Senator Russek, the Senate, at 4:48 o'clock p. m., adjourned until 10 o'clock tomorrow morning.

APPENDIX.

Petitions and Memorials.

(Telegram.)

Fort Sam Houston, Texas.

January 16, 1933.

Hon. Bob Barker, Secretary of State
Senate, State Capitol, Austin,
Texas.

Acknowledging your cordial invitation of January 16th to me and my staff to attend inaugural ceremonies on January 17th. You are informed that I shall not be able to attend in person because of plans requiring my presence at El Paso on that date. Lateness of receipt of invitation prevents change in plans. Colonels Kilbourne and Clark of my staff will attend as representatives.

WINANS.

Randolph Field, Texas,

January 16, 1933.

Bob Barker, Secretary of the Senate,
Austin, Texas.

Absence on furlough General Danforth unable to attend inaugural

ceremonies. Thank you most cordially for invitation.

ARTHUR THOMAS,
Adjutant.

FIFTH DAY.

Senate Chamber,
Austin, Texas,
January 17, 1933.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tem. Walter Woodul.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Pace.
Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Regan.
Hopkins.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodul.
Neal.	Woodward.
Oneal.	

Absent—Excused.

Cousins. Woodruff.

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Fellbaum.

Committee Reports.

(See Appendix.)

Senate Simple Resolution No. 17.

Senator Patton sent up the following resolution:

Whereas, The Old Grey Mare Band is within the Capital City; and

Whereas, This band is composed of cowboys living within the confines of Houston; and

Whereas, This band made history at the Chicago National Convention in June of last year; now therefore, be it

Resolved, That the Old Grey Mare Band be invited to play for the Senate.

WOODUL,
PATTON.

Read and adopted.

The Chair appointed Senators Patton and Russek to escort the band to the front of the room.

At Ease.

On motion of Senator Martin, the Senate at 10:05 a. m., stood at ease subject to the call of the Chair for the concert by the Old Grey Mare Band.

In Session.

The Senate was called to order at 10:24 o'clock a. m., by President Pro Tem. Walter Woodul.

Special Committee Report.

Senator Beck sent up the following special committee report:

Austin, Texas, Jan. 17, 1933.
His Excellency, Governor R. S. Sterling,
Hon. Edgar E. Witt, President of the Senate, and
The Legislature of Texas.

Sirs: We, your Committee appointed under authority of Senate Simple Resolution No. 123, beg leave to submit herewith our final report.

BECK, Chairman,
HARDIN, Vice-Chairman,
PURL,
MOORE,
DeBERRY.

Read and laid on the table subject to call.

Senate Simple Resolution No. 18.

Senator Sanderford sent up the following resolution:

Whereas, The John Tarleton College Military Band is here to play for the Inauguration, and

Whereas, This band is directed by Carl C. Hardin, Jr., the son of former Senator Carl C. Hardin; therefore be it

Resolved, That this band be invited to play in the Senate Chamber.

SANDERFORD.

Read and adopted.

Memorial From North Dakota.

The Chair laid before the Senate a memorial from the Legislature of North Dakota relative to the Frazier Bill in Congress.

The memorial was read, and, on motion of Senator Purl, referred to the Committee on Federal Relations.

Communication From Attorney General.

The Chair laid before the Senate the following communication from the Attorney General:

Offices of the Attorney General,
Austin, Texas, Jan. 16, 1933.
To the Honorable President and Members of the Senate of the Forty-third Legislature.

Gentlemen: Receipt is acknowledged of a copy of Senate Resolution No. 11 adopted by Your Honorable Body today, requesting that I furnish to the presiding officer of the Senate, at my earliest convenience, an opinion answering the following questions, to-wit:

"What date does the term of the Honorable B. F. Tisinger, Member of the State Board of Education, expire?

"What date does the term of the Honorable C. H. Chernosky, Member of the State Board of Education, expire?

"What date does the term of the Honorable Tom Garrard, Member of the State Board of Education, expire?

"Does the Governor holding office as Governor on the date of expiration of term of office of above named officials have the power under the laws of this State to reappoint or name their successors?"

Upon examination of the relevant constitutional and statutory provisions and executive action based thereon, I find the following:

The Constitution of 1876 created a State Board of Education composed of the Governor, the Comptroller and Secretary of State. (Article 7, Section 8, Constitution of the State of Texas.) By statute the Governor was made ex-officio President of the Board and the State Superintendent of Public Instruction was made ex-officio Secretary of the Board. (Article 2664, Revised Civil Statutes, 1925.) This board composed of the Governor, Comptroller and Secretary of State, serving in the manner provided by the Constitution, performed the functions of the State Board of Education prior to the amendment of the Constitution in 1928.

By House Joint Resolution No. 14, the Fortieth Legislature of the State of Texas at its Regular Session held in 1927 proposed that Section 8 of

Article 7 of the Constitution be amended and that a new section to be known as Section 16 of Article 7 be added to the Constitution of 1876. (General and Special Laws of Texas, 40th Legislature, Regular Session, page 499.) The proposed amendments were adopted at the general election held on November 6, 1928, and now form a part of our Constitution. Section 8, Article 7, as amended, now reads as follows:

"The Legislature shall provide by law for a State Board of Education, whose members shall be appointed or elected in such manner and by such authority and shall serve for such terms as the Legislature shall prescribe not to exceed six years. The said board shall perform such duties as may be prescribed by law."

Section 16, Article 8, being the added section, now reads as follows:

"The Legislature shall fix by law the terms of all offices of the public school system and of the State institutions of higher education, inclusive, and the terms of members of the respective boards, not to exceed six years."

Pursuant to such constitutional authority, the 41st Legislature of Texas, at its 2nd Called Session, created a State Board of Education to be composed of nine members, to be appointed by the Governor with the advice and consent of the Senate. (General Laws, 2nd Called Session, 41st Legislature, Chapter 10, page 12.)

Section One of said Act reads as follows:

"Section 1. There is hereby created the State Board of Education. Said Board shall consist of nine members to be appointed by the Gov-

ernor, with the advice and consent of the Senate. Of the first Board to be appointed the terms of three members shall expire on January 1, 1931; the term of the next three members shall expire on January 1, 1933; and, the terms of the remaining three members shall expire on January 1, 1935. After the first Board, the term of each member shall be for six years from the date of the respective appointments, and the appointments shall be made and the terms arranged in such manner that three of said members shall retire on the first day of January biennially, and the Governor shall biennially, on the first day of January, fill such vacancies by the appointment of three members. Each member of said Board shall be a citizen at least thirty years of age and otherwise qualified to vote and no member shall at the time of his appointment, or during the term of his service, be engaged as a professional educator."

This Act was approved July 3rd, 1929. Its terms are clear and explicit and admit of no doubt. Of the first Board of nine members to be appointed, the terms of three members expired on January 1, 1931, the terms of the next three members expired on January 1, 1933, and the terms of the remaining three members shall expire on January 1, 1935. In determining the date of expiration of the terms of those members named by you, the only question left for consideration is the date of their appointment and the designation of the term for which they were to serve. The 1928 election register of the Secretary of State shows the following:

	Appointed	Confirmed	Term Expires
Mrs. Noyes D. Smith.....	9- 6-29	2-6-30	6 years
Mrs. Minnie Fisher Cunningham	9- 6-29	2-6-30	
No date of qualification or commission.			
Nat Washer.....	9- 6-29	2-6-30	6 years
F. L. Henderson.....	9- 6-29	2-6-30	6 years
Ben F. Tisinger.....	9- 6-29	2-6-30	4 years
C. H. Chernosky.....	9- 6-29	2-6-30	4 years
J. W. O'Banion.....	9- 6-29	2-6-30	2 years
T. E. Jackson.....	9- 6-29	2-6-30	2 years
Notation: resigned			
Tom Garrard.....	9- 6-29	2-6-30	4 years
Mrs. J. E. Watkins.....	9-11-29	2-6-30	2 years
J. O. Guleke.....	12-23-30	2-6-30	Vice-Jackson
J. O. Guleke.....	12-23-30	1-1-31	1937
Mrs. J. E. Watkins.....	12-23-30		1937

The 1930 election register carries forward the names of Tisinger, Chernosky and Garrard, and under the column heading "Term Expires," carries this notation for each of these three gentlemen:

"4 years 1-1-33."

On examination of the files in the office of the Secretary of State, I find that on September 6, 1929, Hon. Dan Moody, Governor, addressed to Mrs. Jane Y. McCallum, Secretary of State, a letter notifying the Secretary of State of the appointments of Messrs. Washer, Henderson, Jackson, Tisinger, Chernosky, Garrard, O'Banion and Mrs. Smith to membership on the State Board of Education. Under date of September 11, 1929, a similar letter was forwarded containing notice of the appointment of Mrs. J. E. Watkins to membership on the State Board of Education. By official letter bearing date of October 5, 1929, signed by Governor Moody, addressed to Mrs. Jane Y. McCallum, Secretary of State, and found in the archives of the office of the Secretary of State, in the file of appointments, confirmations, and resignations for 1929, Governor Moody designated terms for the members of the State Board of Education, shortly theretofore appointed by him, in the following language:

"I have designated the following terms for the members of the State Board of Education:

Hon. J. W. O'Banion, 2-year term.
Hon. T. E. Jackson, 2-year term.
Mrs. J. E. Watkins, 2-year term.

Hon. Ben F. Tisinger, 4-year term.
Hon. Tom Garrard, 4-year term.
Hon. C. H. Chernosky, 4-year term.

Hon. Nat Washer, 6-year term.
Hon. F. L. Henderson, 6-year term.
Mrs. Noyes D. Smith, 6-year term.

The statute prescribes no manner of fixing the terms of the members of the State Board of Education. I am of the opinion that the Governor making the original appointments had the right and power to designate the terms for which the appointees on the original Board should serve. Section 3 of the Act creating the State Board of Education as now constituted (Chapter 10, General Laws, 2nd Called Session, 41st Legislature) reads as follows:

"The State Board of Education shall organize by the election of one of its members as President, and the State Superintendent of Public Instruction shall be ex-officio secretary of the board."

The statute providing for the organization of the State Board of Education at its original meeting contains no directions relative to the selection of the terms for which the members should serve. This strengthens my conclusion that the Governor making the original appointments had the right and power to designate the terms for which the newly appointed members should serve. Hon. F. L. Henderson, a member of the State Board of Education since its organization, informs me that no attempt was made by the members of the Board at any of their meetings to cast lots or to fix for themselves the dates of expiration of their terms but that on the contrary the members of the Board accepted the designation made by Governor Moody in the official letter heretofore mentioned.

The 1930 election register shows that when Mrs. J. E. Watkins' term expired on January 1, 1931, in accordance with the statute and with Governor Moody's designation of her term as one of the two-year terms, she was re-appointed for a full six-year term. The same is true of Hon. J. O. Guleke, who was originally appointed January, 1930, to succeed T. E. Jackson, who had resigned. Jackson was one of those members whose term had been designated as a two-year term and on expiration of that term J. O. Guleke was reappointed and was confirmed for a full six-year term ending in 1937. J. W. O'Banion, who was designated for the third two-year term, was succeeded by Ernest Alexander in 1931.

It is clear from the terms of the statute that the terms of three of the members expired on January 1, 1933. Since, by the letter of October 5, 1929, Ben F. Tisinger, C. H. Chernosky and Tom Garrard were designated for the four-year term and since that designation by the Governor was accepted by the State Board of Education and has been heretofore followed as to those three members designated for the two-year term, such designation will govern the date of expiration of the terms

of Messrs. Tisinger, Chernosky and Garrard.

I am, therefore, of the opinion that the terms of Messrs. Ben F. Tisinger, C. H. Chernosky and Tom Garrard, as members of the State Board of Education, all expired on January 1, 1933.

In your last question, which is quoted above, you ask my opinion as to the power of the Governor holding office as Governor on the date of the expiration of the terms of office of the above named members to reappoint them or to name their successors. This question is settled by the statute in language so clear as to admit of no doubt and in words which call for no rule of interpretation. Section 1 of the Act creating the Board states that, after the first Board, the term of each member shall be for six years from the date of the respective appointments and "the appointments shall be made and the terms arranged in such manner that three of said members shall retire on the first day of January biennially and the Governor shall biennially, *on the first of January*, fill such vacancies by the appointment of three members." (Italics ours.)

The statute, by express terms, settles the fourth question asked by you in your Resolution No. 11. Governor Sterling on January 1, 1933, had the right, power and express duty under the statutes, of reappointing or naming the successors of the three members whose terms expired on January 1, 1933. The power, right and duty of naming these members did not terminate on that day, however, but was a continuing right and duty which would arise on January 1, 1933, and would continue until the appointments had been made.

Very truly yours,
JAMES V. ALLRED,
Attorney General of Texas.

On motion of Senator Woodward, the communication was ordered printed in the Journal without being read.

At Ease.

On motion of Senator Holbrook, the Senate, at 11:00 o'clock a. m., stood at ease until 11:25 o'clock a. m.

In Session.

The Senate was called to order at 11:25 o'clock a. m., by President Pro Tem. Walter Woodul.

Joint Session.

At 11:25 o'clock a. m., the Senate adjourned to the House for the joint session for the inauguration of Hon. Miriam A. Ferguson as Governor of Texas and Hon. Edgar E. Witt as Lieutenant Governor of Texas.

In the House.

The Senate, escorted by the Sergeant-at-Arms of the Senate, A. W. Holt, and the Secretary of the Senate, Bob Barker, advanced into the Hall, and, by direction of the Speaker of the House, occupied seats prepared for them along the aisle.

The President Pro Tempore of the Senate, the Hon. Walter Woodul, by invitation of the Speaker, occupied a seat on the Speaker's stand.

The President Pro Tempore directed the Secretary to call the roll of the Senate.

The roll of the Senate was called, and the following Senators answered to their names:

Beck.	Pace.
Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Fellbaum.	Rawlings.
Greer.	Redditt.
Holbrook.	Regan.
Hopkins.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodul.
Neal.	Woodward.
Oneal.	

Absent.

Cousins.	Woodruff.
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A quorum of the Senate was announced present.

Speaker Stevenson directed the Clerk to call the roll of the House.

The roll of the House was called, and the following Members were present:

Mr. Speaker.	Aikin.
Adamson.	Alexander

Alsup.	Hunt.
Anderson	Hyder.
of Bexar.	Jackson.
Anderson	James.
of Johnson	Jefferson.
Baker.	Johnson
Barrett.	of Anderson.
Barron.	Johnson
Beck.	of Dimmit.
Bedford.	Jones of Atascosa.
Bourne.	Jones of Runnels.
Bradley.	Jones of Shelby.
Burns.	Kayton.
Butler.	Kyle of Hays.
Calvert.	Kyle
Camp.	of Palo Pinto.
Canon.	Laird.
Cathey.	Latham.
Caven.	Lemens.
Chastain.	Leonard.
Clayton.	Lindsey.
Colson.	Long.
Coombes.	Lotief.
Cowley.	Magee.
Crossley.	Mackay.
Daniel.	Mathis.
Davidson.	McClain.
Dean.	McCullough.
Devall.	McGregor.
Dunlap.	McKee.
Dunagan.	Merritt.
Duvall.	Metcalf.
Engelhard.	Mitcham.
Fain.	Moffett.
Few.	Moore.
Fisher.	Morrison.
Ford.	Morse.
Fuchs.	Munson.
Glass.	Palmer.
Golson.	Parkhouse.
Good.	Patterson.
Goodman.	Pavlica.
Graves.	Pope.
Greathouse.	Puryear.
Griffith.	Ramsey.
Haag.	Ratliff.
Hankamer.	Ray.
Harman.	Reader.
Harris.	Reed of Bowie.
Harrison.	Reed of Dallas.
Hartzog.	Renfro.
Head.	Riddle.
Hester.	Roberts.
Hicks.	Rogers of Hunt.
Hill of Brazoria.	Rogers
Hill of Webb.	of Ochiltree.
Hodges.	Rollins.
Holekamp.	Ross.
Holland.	Russell.
Holloway.	Savage.
Hoskins.	Scarborough.
Huddleston.	Scott.
Hughes.	Shannon.

Shults.	Townsend.
Smith.	Turlington.
Stanfield.	Van Zandt.
Steward.	Vaughan.
Stinson.	Walker.
Stovall.	Weinert.
Sullivant.	Wells.
Tarwater.	West.
Tennyson.	Winningham.
Thomas.	Wood.
Tillery.	Young.

Absent--Excused.

Dwyer.	Nicholson.
McDougald.	Wagstaff.

The Speaker announced a quorum of the House present.

The Speaker of the House and the President Pro Tempore of the Senate then announced that the two houses were in Joint Session, in accordance with a resolution heretofore adopted, for the purpose of inaugurating the Governor-elect and the Lieutenant-Governor-elect.

The Hon. Miriam A. Ferguson, Governor-elect, the Hon. Edgar E. Witt, Lieutenant-Governor-elect, and parties, accompanied by the Hon. C. M. Cureton, Chief Justice of the Supreme Court, and the committees on the part of the House and Senate, heretofore appointed to arrange for the inaugural ceremonies, appeared at the Bar of the House, and, being admitted, were escorted to seats on the Speaker's stand.

Bishop Clinton S. Quinn, of the Episcopal Diocese of Texas, offered prayer.

Miss Lillian Sellers, accompanied by Mrs. Stacy, sang several selections for the assemblage.

Hon. Edgar E. Witt, Lieutenant-Governor-elect, came forward and took the constitutional oath of office, which was administered to him by Chief Justice C. M. Cureton, and he also affixed his signature to the official oath, Chief Justice Cureton attesting same with the great seal of the Commonwealth of Texas.

Senator Walter Woodul, President Pro Tempore of the Senate, presented Lieutenant-Governor Edgar E. Witt.

Lieutenant-Governor Edgar E. Witt addressed the Joint Session and the assemblage.

The Hon. Miriam A. Ferguson, Governor-elect, came forward and took the constitutional oath of of-

fice, which was administered to her by Chief Justice Cureton, and she affixed her signature to the official oath, Chief Justice Cureton attesting same with the great seal of the Commonwealth of Texas.

Speaker Stevenson presented Hon. T. H. McGregor, who in turn introduced the Hon. Miriam A. Ferguson, Governor.

Governor Ferguson addressed the Joint Session and the assemblage.

On motion of Senator Sanderford, the Senate, at 12:30 o'clock p. m., retired to the Senate Chamber.

In Session.

The Senate returned to the Senate Chamber at 12:30 o'clock p. m. and was called to order by President Pro Tem. Walter Woodul.

Adjournment.

Senator Oneal moved to adjourn until 2 o'clock p. m. tomorrow.

Senator Purl moved as a substitute that the Senate adjourn until 10 o'clock Thursday morning. The substitute motion was lost.

The original motion prevailed and at 12:38 o'clock p. m. the Senate adjourned.

APPENDIX.

Committee on Enrolled Bills.

Committee Room,
Austin, Texas, Jan. 16, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills have had Senate Concurrent Resolution No. 3 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee on Engrossed Bills.

Committee Room,
Austin, Texas, Jan. 16, 1933.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had Senate Concurrent Resolution No. 5 carefully examined and compared and find same correctly engrossed.

REAGAN, Chairman.

SIXTH DAY.

Senate Chamber,
Austin, Texas,
January 18, 1933.

The Senate met at 2 o'clock, p. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Pace.
Blackert.	Parr.
Collie.	Patton.
Cousins.	Poage.
DeBerry.	Purl.
Duggan.	Rawlings.
Fellbaum.	Redditt.
Holbrook.	Regan.
Hopkins.	Russek.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.

Absent—Excused.

Greer.

Prayer by the Chaplin.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Rawlings.

Petitions and Memorials.

(See Appendix.)

Bills and Resolutions.

By Senator Moore:

S. B. No. 35, A bill to be entitled "An Act amending Article 3118 by adding to it Article 3118-A, providing that the county executive committee of any political party shall require a bond of the county chairman or of the secretary, prescribing the conditions and amount thereof, for the recovery thereon; for the paying of the fees therefor, and declaring an emergency."

Read and referred to Committee on Privileges and Elections.

By Senator Moore:

S. B. No. 36, A bill to be entitled "An Act declaring the policy of the State of Texas on production of cotton of less than 5-8 inch staple; providing for penalties; providing for payment of such penalties;